

Senate Bill 396

By: Senators Goggans of the 7th, Johnson of the 1st, Williams of the 19th, Whitehead, Sr. of the 24th, Unterman of the 45th and others

AS PASSED

AN ACT

To amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as a defense to certain crimes, so as to provide that a person who is attacked has no duty to retreat; to provide that such person has a right to meet force with force, including deadly force; to provide for civil immunity; to amend Article 1 of Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions relative to defense to tort actions, so as to provide for civil immunity; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as a defense to certain crimes, is amended by inserting immediately following Code Section 16-3-23 a new Code section to read as follows:

"16-3-23.1.

A person who uses threats or force in accordance with Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat and has the right to stand his or her ground and use force as provided in said Code sections, including deadly force."

SECTION 2.

Said article is further amended by striking in its entirety Code Section 16-3-24.2, relating to immunity from prosecution and exception, and inserting in lieu thereof the following:

"16-3-24.2.

A person who uses threats or force in accordance with Code Section 16-3-21, 16-3-23, 16-3-23.1, or 16-3-24 shall be immune from criminal prosecution therefor unless in the use

of deadly force, such person utilizes a weapon the carrying or possession of which is unlawful by such person under Part 2 or 3 of Article 4 of Chapter 11 of this title."

SECTION 3.

Article 1 of Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions relative to defense to tort actions, is amended by striking in its entirety Code Section 51-11-9, relating to immunity from civil liability for threat or use of force in defense of a habitation, and inserting in lieu thereof the following:

"51-11-9.

A person who is justified in threatening or using force against another under the provisions of Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat from the use of such force and shall not be held liable to the person against whom the use of force was justified or to any person acting as an accomplice or assistant to such person in any civil action brought as a result of the threat or use of such force."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.